

Therefore it is ordered, that the property in the proceedings mentioned be sold upon the following terms, that is to say, one—

and confirmation by the Chancellor, which will be, if at all, just six weeks from the day of sale; and upon receipt of the whole purchase money, and not before, the trustee by a good deed, &c. &c. The Chancellor considers the trustee as having the right or power of postponing a sale, if in the trustee's opinion necessary; and likewise of having a bye-bidder.

The trustee Johnson reported, that he had given bond as required; and that he had on the 15th of March, 1805, made sale of a part of the real estate of the testator. At the foot of which report there was a note in these words: "We the subscribers do approve of the sale made by the trustee to Mrs. Isaac Duckett, as contained in the foregoing report, and request the Chancellor to confirm the same." Signed John Gassaway, guardian to Eliza and John. John Kilty.

HANSON, C., 3d July, 1805.—Ordered, that the sale made by John Johnson of the real estate of the testator Allen Quyan, be absolutely ratified and confirmed; that for his whole trouble and expense incurred, or to be incurred, in the execution of his trust, he be allowed the sum of £150; and that the auditor state the application of the money arising from the sale, after deducting the said commission and costs.

The auditor reported a distribution of the proceeds of the sales, in which he awarded one-fourth of them to the plaintiff in his own right, and another fourth to him as the assignee of the defendant John Quynn.

Upon which the trustee Johnson, by his petition, stated, that he was desirous of closing his trust; and as the bonds, taken to secure the payment of the purchase money, would not become due for some time, he prayed, that he might be ordered to assign them to the several devisees in satisfaction of their respective shares.

HANSON, C., 10th July, 1805.—Ordered, that the trustee after receiving on each bond an equal proportion of the costs and expenses, as stated in the auditor's report, assign to the respective parties entitled, the bonds as follows, to wit, to John Kilty the two bonds, one due on the 15th day of March, 1807, the other due on the 15th day of March, 1808; to the guardian of the children of Allen Quynn, the son, deceased, one bond due on the 15th day of March, 1809, and one bond due March 15th, 1806, equally to Eliza Gassaway the daughter of John Gassaway, and to the guardian of John Gassaway, Junior; Eliza to take in her own right, and the guardian of John Gassaway, Junior, to take for him. But the Chancellor wishes, and proposes, that the last bond be given up, and instead thereof, there be two bonds given, one for one-half of the sum to Eliza Gassaway, and another for the other half unto the guardian of John Gassaway, Junior.

It is declared that in case any sale shall be made on credit by direction of the Chancellor under the authority of the Act of 1785, ch. 72, s. 9, he may direct any bond taken in consequence of such sale to be assigned to such mortgagee or creditor. It would seem therefore, that the assignment of the bonds here directed could not, in strictness, have been made under the authority of this Act of Assembly; but as it has been held, in bankruptcy, that where a distribution is directed to be made, it may be made in kind, as